

REMARKS

In response to the action dated September 4, 2003, Applicants elect the invention of Group III (i.e., claims 24-27) drawn to an isolated biocontrol agent for the treatment of a fungal infection. The election is made without traverse. Claims 1-23 and 28-70, which belong to non-elected groups, have been withdrawn without prejudice.

Applicants have amended claim 24 to promote clarity and added new claims 73-102. Support for the amendment and new claims can be found in the claims as originally filed and throughout the specification. See Table 1 below:

Table 1 Support for amended and newly added claims

| Amended or new claims | Support in the application |
|------------------------------|---|
| Amended claim 24 | Original claim 24 |
| Claim 73 | The paragraph bridging pages 25 and 26, and original claim 8 |
| Claim 74 | Page 25, lines 15-18, and original claim 10 |
| Claim 75 | Page 26, lines 19-21, and original claim 11 |
| Claim 76 | The paragraph bridging pages 26 and 27, and original claim 12 |
| Claim 77 | Page 21, lines 13-30, and original claim 5 |
| Claim 78 | Page 22, lines 1-3, and original claim 6 |
| Claim 79 | Page 19, line 29 through page 20, line 8 |
| Claim 80 | Page 20, lines 20-27 |
| Claim 81 | Page 20, line 1, and original claim 4 |
| Claims 82-91 | Original claims 1-6 and 10-13, respectively |
| Claim 92 | Original claims 14, 18, and 19 |
| Claims 93-95 | Original claims 2-4, respectively |
| Claims 96-101 | Original claims 15, 16, and 20-23, respectively |
| Claim 102 | Original claim 31 |

Applicants would like to point out that the instant application is a national stage application of an International application. According to 37 CFR 1.475(b):

An international application or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

...
(3) a product and a process of use of said product ...

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New claims 73-81 are drawn to various embodiments of the biocontrol agent covered by elected claim 24. New claims 82-91 are drawn to a method of treating fungal infection in a plant using the biocontrol agent covered by elected claim 24. New claims 92-101 are drawn to a method of enhancing post-harvest storage of a plant product using the biocontrol agent covered by elected claim 24. New claim 102 is drawn to a phytoprotective composition containing the biocontrol agent covered by elected claim 24. In other words, each of the new claims either covers "a product or a process of use of said product." Thus, Applicants submit that claims 24-27 and 73-102 relate to a single invention under 37 CFR 1.475(b) and request that these claims be examined and allowed.

Enclosed is a \$1005 check for the Petition for Five Month Extension of Time fee. Please apply any charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 13377-002001.

Respectfully submitted,

Date: 3-4-04

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